

**REMARKS**

Claims 16, 19, 27, and 28 are currently being amended to obviate the Examiner's objections. The amendments herein do not introduce new matter within the meaning of 35 U.S.C. §132. Accordingly, entry of the amendments is respectfully requested.

**1. Objection to Claim 16**

Applicant has amended claim 16 to obviate the Examiner's objection thereto. Accordingly, Applicant respectfully requests the Examiner to withdraw the instant objection.

**2. Objection to Claims 16, 27, and 28**

Applicant has amended claims 16, 27, and 28 to obviate the Examiner's objection thereto. Accordingly, Applicant respectfully requests the Examiner to withdraw the instant objection.

**3. Objection to Claim 19**

Applicant has amended claim 19 to obviate the Examiner's objection thereto. Accordingly, Applicant respectfully requests the Examiner to withdraw the instant objection.

**4. Rejection of Claims 16-19, 27, and 28 Under 35 U.S.C.**

**112, 2<sup>nd</sup> Paragraph**

Applicant respectfully traverses the rejection of claims 16-19, 27, and 28.

In particular, Applicant respectfully believes the term "Mw/Mn" is adequately defined in Applicant's specification. In fact, on page 2, lines 20-21 in the WO publication (i.e., WO 2004/056878) of Applicant's specification, Applicant respectfully believes not only is the term "Mw/Mn" defined, but Mw as well as Mn are also defined. "A fundamental principle contained in 35 U.S.C. 112, second paragraph is that applicants are their own lexicographers. They can define in the claims what they regard as their invention essentially in whatever terms they choose so long as any special meaning assigned to a term is clearly set forth in the specification." See MPEP §2111.01 III and §2173.01.

Additionally, the Examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. §112, second paragraph, is whether the claim meets the threshold requirements of clarity and precision, and not whether more suitable language or modes of expression are available. Additionally, the Examiner should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. See MPEP §2173 and §2173.02. "The requirement to 'distinctly' claim means that the claim must have a meaning discernible to one of

ordinary skill in the art when construed according to correct principle. . . . Only when a claim remains insolubly ambiguous without a discernible meaning after all reasonable attempts at construction must a court declare it indefinite." *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1366, 71 USPQ2d 1081, 1089 (Fed. Cir. 2004).

In light of the above, Applicant respectfully believes one of ordinary skill in the art would appreciate the metes and bounds of claims 16-19, 27, and 28, and the aforementioned claims fully comply with 35 U.S.C. §112. Accordingly, Applicant respectfully requests the current rejection to be withdrawn.

**5. Rejection of Claims 16, 17, 27, and 28 Under 35 U.S.C.**

**112, 2<sup>nd</sup> Paragraph**

Applicant respectfully traverses the rejection of claims 16, 17, 27, and 28.

In particular, Applicant respectfully believes the term "Mn" is adequately defined in Applicant's specification. In fact, on page 2, lines 20-21 in the WO publication (i.e., WO 2004/056878) of Applicant's specification, Applicant respectfully believes Mn is adequately defined as the number average molar mass. "A fundamental principle contained in 35 U.S.C. 112, second paragraph is that applicants are their own lexicographers. They can define in the claims what they regard as their invention essentially in whatever terms they choose so long as any special meaning assigned to a term

in clearly set forth in the specification." See MPEP §2111.01 III and §2173.01.

Additionally, the Examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. §112, second paragraph, is whether the claim meets the threshold requirements of clarity and precision, and not whether more suitable language or modes of expression are available. Additionally, the Examiner should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. See MPEP §2173 and §2173.02. "The requirement to 'distinctly' claim means that the claim must have a meaning discernible to one of ordinary skill in the art when construed according to correct principle. . . . Only when a claim remains insolubly ambiguous without a discernible meaning after all reasonable attempts at construction must a court declare it indefinite." *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1366, 71 USPQ2d 1081, 1089 (Fed. Cir. 2004).

In light of the above, Applicant respectfully believes one of ordinary skill in the art would appreciate the metes and bounds of claims 16, 17, 27, and 28, and the aforementioned claims fully comply with 35 U.S.C. §112. Accordingly, Applicant respectfully requests the current rejection to be withdrawn.

**6. Provisional Double Patenting Rejection of Claims 16-19, 27,**  
**and 28**

Applicant respectfully traverses the provisional double patenting rejection of claims 16-19, 27, and 28 to claims 17-20 in co-pending U.S. Patent Application Serial No. 11/578,753. In particular, the instant application has an effective U.S. filing date of March 4, 2003 (i.e., U.S. Provisional Application Serial No. 60/451,836), whereas the cited co-pending U.S. Patent Application having Serial No. 11/578,753 has an effective U.S. filing date of July 13, 2004 (i.e., U.S. Provisional Application Serial No. 60/587,533). Additionally, MPEP §804 (I)(B)(1) states,

If a 'provisional' nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

Therefore, since the instant application is the earlier-filed application, Applicant respectfully believes the current rejection should be withdrawn.

**CONCLUSION**

Based upon the above remarks, the presently claimed subject matter is believed to be novel and patentably distinguishable over the references of record. The Examiner is therefore respectfully

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requested to reconsider and withdraw all the objections and rejections, and allow pending claims 16-19 and 27-28. Favorable action with an early allowance of the claims pending in this application is earnestly solicited.

The Examiner is welcomed to telephone the undersigned practitioner with any questions or comments.

Respectfully submitted,

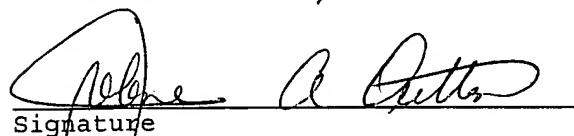
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on

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ATTACHMENT A

Claims 1 - 15: (Cancelled)

16. (Currently Amended) A copolymer of ethylene with  $\alpha$ -olefins which comprises a molar mass distribution  $M_w/M_n$  of from 1 to 8, a density of from 0.85 to 0.94 g/cm<sup>3</sup>, a molar mass  $M_n$  of from 10,000 g/mol to 4,000,000 g/mol, a CDBI of less than 50%, a vinyl group content of from 0.1 to 1 vinyl groups/1000 carbon atoms, a long chain branching (Lcb) rate ~~Lcb-rate~~ of from 0.001 to 0.09 Lcb/1000 carbon atoms, the copolymer comprising at least a bimodal short chain branching distribution, and wherein a side chain branching of the maxima of the individual peaks of the short chain branching distribution, as determined by crystallization analysis fractionation (CRYSTAF), of the copolymer of ethylene ~~and the~~ with  $\alpha$ -olefins is greater than 5 CH<sub>3</sub>/1000 carbon atoms.

17. (Previously Presented) The copolymer of ethylene with  $\alpha$ -olefins as claimed in claim 16, wherein the molar mass  $M_n$  is from 150,000 g/mol to 1,000,000 g/mol.

18. (Previously Presented) The copolymer of ethylene with  $\alpha$ -olefins as claimed in claim 16 which has at least one peak, as determined by CRYSTAF, of a differential distribution in the range from 15 to 40°C, and at least one further peak, as determined by CRYSTAF, of the differential distribution in the range from 25 to 80°C.

19. (Currently Amended) The copolymer of ethylene with  $\alpha$ -olefins as claimed in claim 16, wherein the copolymer of

ethylene with  $\alpha$ -olefins comprises ~~comprise~~ a trimodal short chain branching distribution.

20. (Cancelled)

21. (Cancelled)

22. (Cancelled)

23. (Cancelled)

24. (Cancelled)

25. (Cancelled)

26. (Cancelled)

27. (Currently Amended) A polymer mixture comprising:

(E) from 1 to 99% by weight of at least one ethylene copolymer comprising a molar mass distribution  $M_w/M_n$  of from 1 to 8, a density of from 0.85 to 0.94 g/cm<sup>3</sup>, a molar mass  $M_n$  of from 10,000 g/mol to 4,000,000 g/mol, a CDBI of less than 50%, a vinyl group content of from 0.1 to 1 vinyl groups/1000 carbon atoms, a long chain branching (Lcb) rate ~~Lcb rate~~ of from 0.001 to 0.09 Lcb/1000 carbon atoms, the copolymer comprising at least a bimodal short chain branching distribution, and wherein a side chain branching of the maxima of the individual peaks of the short chain branching distribution, as determined by crystallization analysis fractionation (CRYSTAF),



of the ethylene copolymer is greater than  
5 CH<sub>3</sub>/1000 carbon atoms;

and

(F) from 1 to 99% by weight of a polymer which is  
different from (E),

where the percentages by weight are based on the total  
mass of the polymer mixture.

28. (Currently Amended) A fiber, film or molding  
comprising an ethylene copolymer comprising a molar mass  
distribution  $M_w/M_n$  of from 1 to 8, a density of from 0.85 to  
0.94 g/cm<sup>3</sup>, a molar mass  $M_n$  of from 10,000 g/mol to  
4,000,000 g/mol, a CDBI of less than 50%, a vinyl group  
content of from 0.1 to 1 vinyl groups/1000 carbon atoms, a  
long chain branching (Lcb) rate ~~Lcb-rate~~ of from 0.001 to  
0.09 Lcb/1000 carbon atoms, the copolymer comprising at  
least a bimodal short chain branching distribution, and  
wherein a side chain branching of the maxima of the  
individual peaks of the short chain branching distribution,  
as determined by crystallization analysis fractionation  
(CRYSTAF), of the ethylene copolymer is greater than  
5 CH<sub>3</sub>/1000 carbon atoms.

29. (Cancelled)